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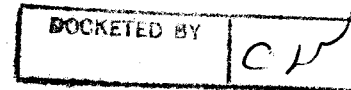
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Arizona Corporation Commission
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DEC 04 1996

December 4, 1996

TO: TELECOMMUNICATIONS SERVICE LIST



Pursuant to A.A.C. R14-2-1505 all entities/persons desiring to file written comments on the Recommended Opinion and Order in Docket Nos. U-3175-96-479 and E-1051-96-479 (MCI/metro Access Transmission Services, Inc. with U S WEST Communications, Inc.) should do so no later than **4:00 p.m. on December 13, 1996**. The comments must be filed/faxed to the Commission by the above deadline. In addition, a meeting will be held by the Arbitrators at 8:30 a.m., on December 16, 1996 at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona, to discuss the exceptions with the various entities/persons.

Sincerely,

Jerry L. Rudibaugh
Chief Hearing Officer

RENZ D. JENNINGS
CHAIRMAN

MARCIA WEEKS
COMMISSIONER

CARL J. KUNASEK
COMMISSIONER



JAMES MATTHEWS
EXECUTIVE SECRETARY

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DEC 4 3 43 PM '96

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DATE: December 4, 1996

DOCKET NO: U-3175-96-479 and E-1051-96-479

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Scott S. Wakefield. The recommendation has been filed in the form of an Opinion and Order on:

MCImetro Access Transmission Services, Inc. and (Arbitration)
U S WEST Communications, Inc.

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

December 13, 1996

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

December 16, 1996 and December 17, 1996

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


James Matthews
EXECUTIVE SECRETARY

JM

Enc.

cc: ALL PARTIES

BEFORE THE ARIZONA CORPORATION COMMISSION

RENZ D. JENNINGS
CHAIRMAN
MARCIA WEEKS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER

PROPOSED ORDER

BY *Hearing Rev.*

IN THE MATTER OF THE PETITION OF)
MCIMETRO ACCESS TRANSMISSION)
SERVICES, INC. FOR ARBITRATION OF)
INTERCONNECTION RATES, TERMS AND)
CONDITIONS PURSUANT TO 47 U.S.C. § 252(b))
OF THE TELECOMMUNICATIONS ACT OF)
1996.)

DOCKET NO. U-3175-96-479
DOCKET NO. E-1051-96-479

DECISION NO. _____

OPINION AND ORDER

DATES OF ARBITRATION: October 22, 23, and 24, 1996
PLACE OF ARBITRATION: Phoenix, Arizona
PRESIDING ARBITRATORS: Jerry L. Rudibaugh, Barbara M. Behun and Scott S. Wakefield
APPEARANCES: Mr. Thomas F. Dixon, Jr., Senior Attorney, MCI
TELECOMMUNICATIONS CORPORATION, and Mr.
Thomas H. Campbell, LEWIS AND ROCA LLP, on behalf of
MCImetro Access Transmission Services, Inc.; and
Mr. Norton Cutler, Corporate Counsel, U S WEST, INC., and
Mr. Timothy Berg, FENNEMORE CRAIG, on behalf of U S
WEST Communications, Inc.

BY THE COMMISSION:

On September 4, 1996, MCImetro Access Transmission Services, Inc. ("MCI") filed with the Arizona Corporation Commission ("Commission") a Petition for Arbitration ("Petition") pursuant to 47 U.S.C. § 252(b) of the Telecommunications Act of 1996 ("Act") to establish an interconnection agreement ("Agreement") with U S WEST Communications, Inc. ("U S WEST"). By Procedural Order dated September 9, 1996, an arbitration was scheduled for October 22, 1996, at the Commission's offices in Phoenix. On September 24, 1996, U S WEST filed its Response to the Petition. The arbitration was held as scheduled and the parties submitted closing arguments in writing on November 14, 1996. The issues resolved in this Decision are those which the parties indicated remain as of November 14, 1996.

...

...

DISCUSSION

On February 8, 1996, President Clinton signed the Act into law which established new responsibilities for the Federal Communications Commission ("FCC") as well as for the various state commissions.¹ On July 2, 1996, the FCC issued *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-268 ("TNP Order"), which established rules so that a customer who changes his local exchange carrier ("LEC") in the same local service area may keep the same telephone number. On July 22, 1996, the Commission in Decision No. 59762 adopted A.A.C. R14-2-1501 through A.A.C. R14-2-1507 ("Arbitration and Mediation Rules"), which authorized the Hearing Division to establish procedures and conduct arbitrations. Also on July 22, 1996, the Commission in Decision No. 59761 adopted A.A.C. R14-2-1301 through 1311 ("Interconnection Rules"), to govern the interconnection of local exchange services between incumbent LECs ("ILECs") and competing LECs ("CLECs"). On August 8, 1996, the FCC released *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, FCC 96-325 ("Order") and *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, FCC 96-333, in which the FCC adopted initial rules ("Rules") designed to accomplish the goals of the Act.²

Pursuant to the Act, telecommunications carriers desiring to interconnect with the facilities and equipment of an ILEC may negotiate the terms of such interconnection directly with the ILEC. If the parties are unsuccessful in negotiating an Agreement, any party to the negotiation may request the Commission to arbitrate any open issues regarding interconnection. The Act requires the Commission to resolve any such issues within 180 days of a telecommunications carrier's initial request to the ILEC for interconnection.

Pursuant to § 252 of the Act, state commissions are required to determine just and reasonable

¹ As part of the Act, the FCC was ordered to issue regulations no later than August 8, 1996 interpreting many of the broad and general terms of the Act.

² Unless otherwise noted, any reference to "Para." in this Decision is to Paragraphs in the Order.

1 rates for interconnection and network elements based on the cost of providing the interconnection or
2 network element which are nondiscriminatory and may include a reasonable profit. For resale services,
3 rates are to be the wholesale rates based on retail rates excluding costs of marketing, billing, collection
4 and other costs avoided by the LEC. The Commission's Interconnection Rules require the use of total
5 service long run incremental costs ("TSLRIC") to determine costs.

6 Our September 9, 1996 Procedural Order directed the parties to provide a joint pre-arbitration
7 statement which set forth their positions and the manner in which their disagreement should be resolved
8 by the arbitrators, a proposed Agreement, a list of witnesses and a summary of their testimony, as well
9 as exhibits. The FCC's Rules issued on August 8, 1996, required the use of total element long run
10 incremental costs ("TELRIC"). TELRIC includes the forward-looking costs that can be attributed
11 directly to the provision of services using that element, and includes a reasonable share of the forward-
12 looking joint and common costs.

13 On September 24, 1996, U S WEST filed cost studies, which included avoided cost as well as
14 TELRIC cost studies. The materials were voluminous and complex.

15 The arbitration in this matter was scheduled to begin on October 22, 1996. It was not reasonable
16 to expect MCI to conduct discovery, review and respond to any of U S WEST's cost studies at the
17 arbitration. No continuance could be granted due to the time frame for final resolution of the disputed
18 issues contained in the Act.

19 Accordingly, on September 10, 1996, a Procedural Order was issued which consolidated the
20 appropriate portions of this proceeding with similar portions of the dockets of interconnection arbitrations
21 between U S WEST and several other CLECs to consider the cost studies submitted by U S WEST in
22 each of those dockets. The Procedural Order indicated that interim rates would be set in accordance with
23 the Order, at the proxy ceilings or mid-points of proxy ranges set forth by the FCC, unless a party showed
24 that an alternate interim price consistent with the proxies would be appropriate. The interim rates would
25 be subject to true-up upon establishment of prices based upon Commission-approved cost studies.

26 The cost studies will be used to set prices for all CLECs in U S WEST's service area.
27 Consolidating the cost study review allows input from the initial CLECs and provides for consistency
28 in the Commission's determination of costs. A separate review of the cost studies in each arbitration

1 could result in varying conclusions, depending upon the competitors' resources available to respond to
2 the studies and the capabilities of each party's witness. The CLECs need sufficient time to review and
3 prepare testimony in response to the cost studies, and the Commission needs to have adequate time to
4 review the conclusions reached by the parties.

5 U S WEST, as well as the CLECs, will not be harmed by the use of the interim prices. The cost
6 studies will be analyzed at a consolidated arbitration beginning on November 18, 1996, with a Decision
7 expected in early 1997. It is anticipated that the interim prices will be in effect a short time, and since
8 the interim prices are subject to a true-up at the conclusion of the cost study rulings, any deficiency will
9 be cured.

10 On September 27, 1996, the United States Court of Appeals for the Eighth Circuit ("Court")
11 issued an Order Setting Hearing and Imposing Temporary Stay. Oral arguments on the motions
12 requesting stay until judicial review of the FCC's Order were held on October 3, 1996, and on October
13 15, 1996, the Court stayed the operation and effect of the FCC's Rules' "pricing provisions and the 'pick
14 and choose' rule" pending the Court's final determination of the issues raised in the petitions for review.
15 Given the time constraints imposed by the Act in this proceeding; the fact that a Decision has not been
16 rendered on the cost study portion of the arbitration; and the Court's issuance of a stay of the pricing
17 provisions of the Rules, the Commission has no choice but to approve prices that we believe are the most
18 reasonable, based on the information provided, whether it is the cost studies submitted by the parties, or
19 the final offers of the parties which in some cases may reflect the proxy ranges set forth by the FCC.
20 Since these will be interim prices, we find that there will be no irreparable harm to the parties.

21 Pursuant to § 252(b)(4)(C), the Commission hereby resolves the issues presented for arbitration.

22 **INTERCONNECTION AND EXCHANGE ACCESS**

23 **Location of interconnection points for exchange of traffic. Issue #1**

24 The Act provides that an ILEC must provide interconnection "at any technically feasible point
25 within the carrier's network." 47 U.S.C. § 251(c)(2)(B). The Order, interpreting this requirement,
26 specifically lists several points at which an ILEC must provide interconnection. Para. 212; 47 C.F.R. §
27 51.305.

28 ...

1 MCI's position

2 MCI argued that it should be permitted to select interconnection points from any point in U S
3 WEST's network where it is technically feasible to do so. This would include, but not be limited to, end
4 offices, local tandems, access tandems, serving wire centers, building telco closets and any other cross-
5 connection points. MCI opposed U S WEST's proposal that interconnection at points beyond the FCC-
6 established minimum locations be subject to a bona fide request ("BFR") process. Instead, MCI
7 proposed that there be a standard ordering process for each interconnection request with specific time
8 frames for U S WEST to meet any such requests. MCI suggested that an access service request be used
9 as the standard ordering process, and that there be a maximum of a ten-day interval on installations.

10 U S WEST's position

11 U S WEST agreed to provide interconnection at the points listed in the Order, but proposed that
12 any requests for interconnection at any additional points be handled pursuant to a BFR process.

13 Commission's resolution

14 We will adopt MCI's proposed standard ordering process for interconnection at points beyond
15 those listed in the FCC Order. If U S WEST provides the same installation to itself or to other ILECs,
16 U S WEST must provide installation to MCI in the shorter of the time it provides installation to itself or
17 to other ILECs. If U S WEST does not provide the same installation to itself or other ILECs, it must
18 provide installation for MCI within a maximum of 10 days. If MCI desires a shorter installation time
19 than require by this paragraph, it must compensate U S WEST for any increased expense.

20 Number of points of interconnection for exchange of traffic. Issue #2

21 MCI's position

22 MCI proposed that it be permitted to choose as many or as few points of interconnection as it
23 desires on U S WEST's network, so long as those points of interconnection are technically feasible. MCI
24 opposed any requirement to interconnect at each of U S WEST's end offices, and instead argued that it
25 should only be required to interconnect at one point per LATA.

26 U S WEST's position

27 U S WEST argued that interconnection points should be determined by mutual agreement
28 between MCI and U S WEST, so as to balance the cost and efficiency concerns of both parties. U S

WEST is concerned that, if MCI establishes only a single point of interconnection per LATA, U S WEST may be required to backhaul the traffic all over the state if MCI offers facilities-based local service outside of the Phoenix local calling area.

Commission's resolution

The Act requires ILECs to provide interconnection at any technically feasible point. The Act does not permit U S WEST to object to any particular point of interconnection based on cost or efficiency. U S WEST's objection to any proposed point of interconnection based on cost or efficiency concerns could act as barrier to competitive entry by MCI. Therefore, we will adopt MCI's position on this issue.

ACCESS TO UNBUNDLED ELEMENTS

The Order requires ILECs to provide access to seven specific network elements. 47 C.F.R. § 51.319. In addition, the Order authorizes state commissions to require unbundled access to additional elements. 47 C.F.R. § 51.317. The Commission may decline to require unbundling only if it determines that access is not technically feasible, or if access to the elements is proprietary and the failure of U S WEST to provide such access would not impair the ability of the CLEC to provide the services it seeks to offer. *Id.*

Immediate unbundling beyond the FCC's minimum list, Issue #9

(a) Sub-loop unbundling

MCI's position

MCI proposed that the portion of the local loop known as "loop distribution" be unbundled. MCI stated that its network passes many buildings that are near, but not directly on, its network. In many cases, only the loop distribution is needed to extend MCI's network to multiple customers' premises. MCI argued that it is inefficient to require MCI to purchase the entire loop from U S WEST, when it only needs the loop distribution portion. MCI contended that unbundling of the loop distribution is technically feasible, and has in fact been occurring among ILECs for years with no harm to network reliability. MCI is willing to allow U S WEST's technicians to perform the necessary functions in the feeder distribution interface ("FDI") box.

U S WEST's position

U S WEST proposed that the Agreement not require subloop unbundling, but instead permit MCI

1 to seek subloop unbundling through the BFR process. U S WEST argued that requiring subloop
 2 unbundling at the FDI would require U S WEST to prepare all 7,600 of its FDI boxes for unbundling.
 3 U S WEST further contended that a broad order mandating subloop unbundling could threaten network
 4 reliability, raise costs, and delay customer cut overs.

5 Commission's resolution

6 We agree with U S WEST that requiring U S WEST to prepare all 7,600 of its FDI boxes for
 7 unbundling may be unnecessary at this time. We therefore will adopt U S WEST's proposal that subloop
 8 unbundling request be handled through a BFR process.³

9 (b) Advanced Intelligent Network ("AIN") triggers

10 An Advanced Intelligent Network ("AIN") trigger is a switch-based capability that temporarily
 11 suspends a call attempt and sends a query back to a Service Control Point ("SCP") to receive call
 12 processing instructions. The SCP then determines the service requested and returns the appropriate
 13 information on how to continue processing the call.

14 MCI's position

15 MCI requested access to AIN triggers. The FCC, in its Order, Para. 502, stated that it could not
 16 decide whether unbundling of AIN triggers was technically feasible, and left to the states whether to order
 17 such unbundling.

18 U S WEST's position

19 U S WEST argued that there are a number of technical issues which must be resolved before AIN
 20 triggers can be unbundled in such a way as to guarantee network reliability and integrity. Until then, U S
 21 WEST requested that it not be required to unbundle AIN triggers.

22 Commission's resolution

23 We will not require the unbundling of AIN triggers at this time. If the unbundling of AIN triggers
 24 becomes technically feasible without unreasonable harm to the network, even during the term of the
 25 initial Agreement, U S WEST will be required to provide that element to MCI.

26 ...

27
 28 ³ Below, we adopt an expedited BFR process to handle such unbundling requests.

1 **(c) Dark fiber**

2 MCI's position

3 MCI argued that it is technically feasible to unbundle dark fiber (fiber without electronics), and
4 U S WEST should be required to provide it as an unbundled element.

5 U S WEST's position

6 U S WEST argued that dark fiber is not a "network element" which the Act requires be
7 unbundled. The FCC in its Order, Para. 450, was unable to conclude whether dark fiber was an element
8 which should be subject to unbundling. U S WEST contended that dark fiber is not an essential facility
9 to competition, and that nothing prevents MCI from pulling its own fiber through U S WEST's existing
10 pathways. U S WEST opposed any requirement that it offer dark fiber, but argued that if it is required
11 to offer dark fiber, MCI should be required to make its dark fiber available to U S WEST.

12 Commission's resolution

13 In Para. 450, the FCC ruled that a sufficient record did not exist upon which to determine whether
14 dark fiber qualified as a network element under Sections 251(c)(3) and 251(d)(2) of the Act. In this
15 Docket, the Commission was provided with sufficient record, and will rule upon the issue.

16 We determine that dark fiber is a network element subject to the terms of the Act. Dark fiber is
17 excess fiber-optic cable which has been placed in a network and is not currently being lit by electronics
18 from any carrier. Dark fiber has significant value because it can be used to substantially increase the
19 capacity of the network without requiring the installation of new fiber, avoiding the expense and
20 inconvenience of construction. The use of dark fiber could greatly reduce the expense of network
21 expansion into an area.

22 As with other capacity issues, such as poles, switches or available space, U S WEST may not
23 reserve the future capacity of its network elements for its own use. Dark fiber, as excess capacity, should
24 be available to CLECs; however, terms and conditions should be attached to its availability, because of
25 its potential value. If MCI requests dark fiber, it must be willing to make a comparable amount of its
26 dark fiber available on a reciprocal basis after such time as all CLECs in U S WEST's service territory
27 reach a combined total of 200,000 access lines. The fiber should be used efficiently and to a reasonable
28 level of capacity. A request for dark fiber must establish that another network element of comparable

1 expense could not satisfy the CLEC's request, and that the dark fiber is necessary. Portions of the
2 capacity on the fiber may be sectioned out, and the CLECs may share fiber capacity. As technology
3 improves, certain capacity problems may be solved by methods other than dark fiber. We will allow U S
4 WEST to revoke the lease and reclaim its dark fiber with twelve months notice to a CLEC, if it can
5 establish that the fiber is necessary to meet its bandwidth requirements or those of another requesting
6 CLEC, provided that the original CLEC's transportation is provided for by alternative and comparably
7 priced means, with the conversion to the alternative means to be at the expense of the new user of the
8 dark fiber, whether that be U S WEST or another CLEC.

9 **Expedited process for further unbundling. Issue #10**

10 MCI and U S WEST submitted nearly identical proposals for a BFR process to be contained in
11 the Agreement. They disagreed, however, on the scope of application of that BFR process.

12 **MCI's position**

13 MCI proposed that there should be an expedited process for further unbundling beyond the items
14 listed in the FCC Order. MCI proposed that U S WEST respond to a BFR for such elements within 10
15 days. In the event there is a disagreement over the outcome of the expedited request, the Commission
16 should resolve the dispute within 30 days of the matter being brought to its attention.

17 **U S WEST's position**

18 U S WEST disagreed that an expedited process is necessary for requests for further unbundling.
19 U S WEST proposed that the standard BFR process be used to handle such requests. That BFR process
20 provides for U S WEST's acknowledgment of the request within 48 hours, a preliminary analysis of the
21 request within 30 days, and a price quote within 90 days.

22 **Commission's resolution**

23 U S WEST's proposal to provide a price quote for requests for further unbundling within 90 days
24 is unreasonably long. On the other hand, MCI's proposal requiring a response within 10 days for
25 unbundling non-routine elements seems unreasonably short. We will therefore require that an expedited
26 process for further unbundling provide for U S WEST's proposed "preliminary analysis" of feasibility
27 within 10 days, and pricing within 21 days for items determined to be feasible.

28 ...

Coordinated cut-overs of unbundled loops, Issue #13**MCI's position**

MCI has proposed procedures to coordinate the cut-over of customers from U S WEST to MCI. MCI proposed that U S WEST and MCI agree on a scheduled two-hour window during which the conversion will take place. MCI also proposed that U S WEST minimize the amount of time that service to the customer is interrupted, and that the interruption time should not exceed five minutes.

U S WEST's position

U S WEST agreed to negotiate a two-hour cut-over window at least 48 hours before the cut-over. U S WEST is willing to minimize service interruptions to end users, but was unwilling to agree to a five minute limit. A U S WEST witness testified that the cut-over process for a 1AESS switch takes at least 12 minutes to perform.

Commission's resolution

We will require MCI and U S WEST to agree to a two-hour cut-over window no more than 48 hours before the cut-over. The Agreement should require U S WEST to minimize the time of service interruption. We will require U S WEST to perform the cut-overs in an average time of five minutes, with a maximum time of 20 minutes. We will require U S WEST to provide to MCI estimates of service interruption time, so that MCI may inform its customers how long an interruption they can expect.

Combination of unbundled elements, Issue #14**MCI's position**

MCI opposed any restriction on how it combines unbundled elements or how those elements are used to provide any particular service. MCI argued that such restrictions would be contrary to section 251(c)(3) of the Act and to 47 C.F.R. § 51.315.

U S WEST's position

U S WEST requested that MCI be prohibited from purchasing from U S WEST all the elements of a "finished" service and recombining them into the same finished product which MCI could obtain from U S WEST on a resale basis. U S WEST is concerned that MCI could avoid the purchase of the retail service pursuant to the Act's resale provisions (i.e. at the retail cost less an avoided cost discount) and instead obtain the same service by purchasing all the unbundled elements of the service at a price

1 based on cost. U S WEST argued that permitting MCI to rebundle an entire service from unbundled
2 elements it purchases from U S WEST will permit MCI to arbitrage the price between the resale service
3 and the prices of the unbundled elements. U S WEST recommended that the Commission ignore the
4 FCC's prohibition on restrictions on combining unbundled elements.

5 Commission's resolution

6 We reject U S WEST's invitation to ignore the FCC's guidance. The Act establishes U S
7 WEST's affirmative duty to provide unbundled elements "for the provision of a telecommunications
8 service." 47 U.S.C. § 251(c)(3). The Act makes no suggestion that MCI's right to obtain unbundled
9 elements should in any way be limited. In fact, the Act requires U S WEST to provide unbundled
10 elements in such a way that allows MCI to provide telecommunications services. U S WEST's provision
11 of requested elements with the limitation requested by U S WEST would contravene that requirement.
12 We will therefore allow MCI to purchase unbundled elements without restriction as to how those
13 elements may be rebundled.

14 RESALE

15 Services available for resale at wholesale rates. Issue #21

16 MCI's position

17 MCI proposed that every retail service which U S WEST offers must be made available for resale
18 at a wholesale discount, including promotions, grandfathered services and Centrex service.

19 U S WEST's position

20 U S WEST opposed making voice mail, inside wire maintenance and promotions of fewer than
21 90 days available for resale. U S WEST argued that voice mail is an information service, not a
22 telecommunication service. Order, Para. 872, indicates that services which are to be provided for resale
23 are those listed in the ILEC's tariffs. Voice mail and inside wire maintenance are not listed in U S
24 WEST's tariffs. The FCC, at Para. 950, indicated that promotions of fewer than 90 days need not be
25 offered for resale.

26 U S WEST indicated it is willing to make certain services available for resale, but argued that they
27 should not be subject to any wholesale discount. U S WEST claimed that private line services are already
28 discounted, and should not be further discounted. In addition, U S WEST's private line and special

1 access tariffs were merged into a single tariff pursuant to Decision No. 57109 (September 21, 1990). The
2 FCC Order provides that there need not be any wholesale discount on special access services (Paras. 873-
3 874). Therefore, U S WEST claimed that private line service should not receive a resale discount. U S
4 WEST claimed that the prices of services offered at volume or term discounts already reflect discounts
5 for avoiding many of the usual costs of retail selling, and therefore should not be further discounted. U S
6 WEST also claimed that residential service is already priced below costs, and therefore should not be
7 subject to a further discount.

8 U S WEST also argued that resale restrictions should prohibit any resale of a service other than
9 to the same class of customers eligible to purchase the service from U S WEST. Specifically, U S WEST
10 proposed that the resale of Centrex services be limited to the same class of customers to whom U S
11 WEST presently sells the service. U S WEST also proposed that grandfathered services be offered for
12 resale only to those end-users qualifying under the grandfather provision, as stated in the Order, Para.
13 968.

14 Commission's resolution

15 Voice mail and inside wire maintenance are not telecommunications services, and also are
16 presently available on the open market. Neither voice mail nor inside wire maintenance is a type of
17 service which the Act was designed to make available to CLECs. It is not necessary for U S WEST to
18 offer voice mail or inside wire maintenance to MCI for resale.

19 Promotional offerings of ninety days or less should not be subject to a resale discount, pursuant
20 to Order Para. 950.

21 Regardless of the merging of the private line and special access tariffs, private line service is
22 offered to end-user customers, and therefore it should be made available for resale at a discount.

23 A volume or term discount reflects operational efficiencies associated with purchases in bulk.
24 A wholesale discount, on the other hand, reflects the lower costs resulting from avoiding certain retail
25 sales expenses, such as billing and collection costs. We will require U S WEST to offer its volume and
26 term discounted services at an appropriate wholesale discount. We acknowledge that discounted services
27 may not have as high an avoided cost as full-priced services.

28 The wholesale discounting requirement of the Act makes no exceptions for services which may

1 be offered at less than cost. We will therefore require U S WEST to make its residential services
2 available for resale at a wholesale discount.

3 We find that U S WEST must offer Centrex for resale at the appropriate discount. Centrex may
4 be resold by MCI only to those end user customers eligible to purchase the service directly under the U S
5 WEST tariff, however.

6 We will restrict the resale of grandfathered services to those end-user customers qualifying under
7 the applicable grandfather provisions.

8 **Branding, Issue #23**

9 **MCI's position**

10 MCI has proposed that repair and maintenance services provided on behalf of MCI be rebranded
11 with MCI's brand, to prevent customer confusion.

12 **U S WEST's position**

13 U S WEST stated it does not object to such branding, but requests time to implement the
14 procedure. U S WEST presently uses a computerized system to print out listings for its installers and
15 repair people, but the listing does not currently have a field to identify the retail providers. U S WEST
16 would have to modify its system to provide this additional data.

17 **Commission's resolution**

18 CLECs must recognize that they are in fact not employing repair and maintenance workers when
19 contracting with an ILEC. U S WEST should have the right to use a branded vehicle. Any uniform
20 branding by U S WEST should be no greater than used prior to the passage of the Act, but U S WEST
21 should not be required to remove established brands or rebrand its uniforms. If the computerized
22 programming which informs the repair employees of the address and service needed, and prints the
23 receipts, can be modified at a reasonable cost to use the brand of a selection of CLECs, then that should
24 be done. Otherwise, the receipt may bear the brand of U S WEST's repair and maintenance, and should
25 add that it provides authorized repair and maintenance for, and list the CLECs for which U S WEST is
26 contracted to provide service. U S WEST may only use its logo if it also uses the logos of the CLECs.
27 U S WEST's name should be listed with the CLECs if its locations will be serviced by its own repair and
28 maintenance. Typeface, font, and appearances of the names of the CLECs and U S WEST in all locations

1 must be the same. If U S WEST's computerized programming can be modified to inform U S WEST's
2 employee for which CLEC service is being rendered, the repair employee may be required to circle or
3 otherwise indicate the name of the appropriate CLEC. U S WEST should not be held liable for any
4 unintentional errors that occur in the branding process.

5 **OPERATIONAL SUPPORT SYSTEMS AND "MEDIATION PLUS"**

6 **Pre-ordering and order processing. Issue #24**

7 **Provisioning and installation. Issue #25**

8 **Maintenance and trouble resolution. Issue #26**

9 **Billing. Issue #27**

10 **MCI's position**

11 The Order, Paras. 316, and 516 through 528, requires electronic access to U S WEST's operations
12 support systems. Access must be provided that is equal in type, quality and price to the access U S
13 WEST provides itself. A.A.C. R14-2-1306(c) and (e). Interfaces must be developed in cooperation with
14 MCI, pursuant to R14-2-1306(e). Access must be provided by January 1, 1997, as specified in the Order,
15 Para. 525, or on a mutually agreed upon date.

16 MCI has proposed that a nationally standardized access be provided as soon as standards are
17 available. Understanding that not all access interfaces have been standardized, MCI has proposed an
18 interim gateway to be used until the adoption of national standards. Its gateway uses technology similar
19 to that currently being evaluated by the standardization committees for adoption as a nationally
20 standardized gateway.

21 MCI has requested that ordering interfaces use EDI version 6.0; and maintenance and repair
22 transactions use electronic bonding - trouble administration by July 1, 1997. MCI has requested that
23 billing be transmitted in billing output specifications format through Integrated Access Billing System.

24 MCI opposed the imposition of U S WEST's gateway on an interim basis. MCI claimed that the
25 gateway is specific to U S WEST, and cannot be used to access any other carrier. MCI also claimed that
26 U S WEST's proposal is not likely to be a reasonable intermediate step to the adoption of a national
27 gateway, and the time, equipment used, and expense of establishing the interim gateway will not be
28 useful in establishing the permanent gateway.

1 U S WEST's position

2 U S WEST agreed to the use of a nationally standardized gateway, once standards are adopted
3 by the standardization board. In the interim, U S WEST proposed a gateway based on Internet-type
4 technology. The interim gateway would be phased in, with a production ready system that supports pre-
5 ordering, ordering, provisioning and repair transactions for resale POTS (plain old telephone service) by
6 January 1, 1997. U S WEST proposed dates for the phase in of maintenance and repair for POTS, and
7 design services, with phase-in of design services for POTS and trouble tickets on July 1, 1997, initial
8 higher level maintenance and repair on July 1, 1997, and design service maintenance and repair other
9 than trouble ticket on November 1, 1997. U S WEST represented that it can comply with the timetable
10 for service contained within the prefiled testimony of Mr. Robert Van Fossen.

11 U S WEST represented that by January 1, 1997, machine-to-machine and human-to-machine
12 interfaces will be operational; that the electronic gateway will provide service that is as good as or
13 superior to the service which U S WEST receives for the same transaction; that CLECs will receive
14 specifications which will allow them to immediately begin construction of their side of the gateway; and
15 that CLECs will receive updated information which will allow them to complete their side of the gateway
16 prior to January 1, 1997. U S WEST indicated that final testing will most likely occur on January 1,
17 1997, although U S WEST also assured the Commission that the gateway will in fact be operational on
18 January 1, 1997.

19 U S WEST estimated that it would cost approximately \$2.5 million to establish its proposed
20 gateway, while it would cost approximately \$10 million or more to establish the gateways MCI proposed.
21 U S WEST claimed that the features of its proposal would be usable in a permanent gateway. U S WEST
22 claimed that MCI's proposed gateway would not be adaptable if the national standards did not fit with
23 its proposal.

24 Commission's resolution

25 We begin by stating certain resolutions which must be followed in the establishment of electronic
26 interfaces for pre-ordering, ordering, provisioning, maintenance and repair, and billing. We adopt the
27 FCC's goal that nationally standardized electronic interfaces should be implemented as soon as possible.
28 If a nationally standardized interface exists for an operations support system, it should be implemented

1 immediately. Gateways should function pursuant to machine-to-machine interfaces as well as human-to-
2 machine interfaces, at the election of a CLEC. Interim gateways should be designed to minimize any
3 waste of time and money incurred in their set-up and in the switch-over to permanent gateways.
4 Therefore, consideration must be given to using software and equipment which is reasonably presumed
5 to be usable when the conversion to a nationally standardized gateway occurs.

6 We will adopt U S WEST's proposed gateway as an interim measure, with conversion to
7 nationally standardized gateways as soon as the gateways are standardized. We will hold U S WEST to
8 its representations regarding the electronic interface.

9 We expect U S WEST to comply with its timetable, without any extensions. Although the Act
10 was passed in February 1996, U S WEST refused to consider an electronic gateway until issuance of the
11 Order on August 8, 1996. U S WEST did not inform CLECs of its development of a proposal until
12 October, 1996. Its proposal does not fully comply with the requirements of the Order. The Order states
13 that all interfaces should be operational by January 1, 1997, while U S WEST's proposal phases in the
14 interfaces, beginning on January 1, 1997. However, the Commission is adopting U S WEST's proposal
15 because of evidence presented that it is substantially less expensive and more convertible to a permanent
16 gateway than MCI's proposal.

17 U S WEST must cooperate with CLECs to do everything reasonably possible to ensure
18 compliance with the operational date, and with allowing the CLECs to test the system as soon as possible.
19 U S WEST should supply the CLECs with plans and specifications, to allow the CLECs to participate
20 in design review and revision, as well as to assist the CLECs in preparation of their sides of the interface.
21 As parts of the system are completed and installed, U S WEST shall keep the CLECs informed and allow
22 them to participate in testing of the available parts of the system. U S WEST shall proceed in preparation
23 of the interfaces with the understanding that time and quality are critical.

24 **Quality of service. Issue #28**

25 **MCI's position**

26 The Act and Order require U S WEST to provide service to CLECs that is at least equal in quality
27 to that which U S WEST provides itself. MCI proposed a set of quality standards and an approach to
28 measure the quality of service and incentives for U S WEST to meet those standards. MCI also proposed

1 that the Agreement provide for credits for failure to meet the standards.

2 U S WEST's position

3 In *The Matter of the Petition of TCG Phoenix for Arbitration Pursuant to § 252(b) of the*
4 *Telecommunications Act of 1996*, Docket No. U-3016-96-402 et al., Decision No. 59873 (October 29,
5 1996), the Commission established a generic proceeding to determine permanent quality of service
6 measurements/liquidated damages with respect to interconnections. In that Decision, the Commission
7 also adopted, on an interim basis, nine quality of service measurements. U S WEST proposed that the
8 same nine measurements be adopted in the interim for MCI. U S WEST argued that nothing in the Act
9 or the FCC Order requires the Commission to establish liquidated damages/credits for failure to satisfy
10 performance standards, and that the Commission may not impose that remedy without the parties'
11 consent.

12 Commission's resolution

13 We adopt, in the interim, the nine measurements proposed by U S WEST as well as dedicated
14 access services to be measured and reported, as the proper measurement on which to gauge U S WEST's
15 performance. We find that, pursuant to the Act, the proper standard of performance for each of those
16 measurements should be the quality of service which U S WEST provides to itself, its ten largest
17 customers, to other CLECs or other quality of service measurements imposed by the Commission,
18 whichever is higher.

19 We will not require that the Agreement include automatic penalties for a party's failure to comply
20 with performance standards. The FCC declined to establish performance penalties. Paras. 307-311.
21 Instead, the FCC stated that an aggrieved party may file a section 208 complaint with the FCC and that
22 the FCC will initiate a proceeding to develop expedited procedures to handle section 208 complaints.
23 In addition, a carrier could file a section 207 complaint seeking the recovery of damages. Paras. 126-129.
24 We will not establish performance penalties where the FCC declined to do so, and where other
25 procedures exist to remedy failures to comply with performance standards.

26 The Commission has rendered its Decision regarding the parties to this arbitration proceeding.
27 Nothing in this Decision shall be considered to prejudice the outcome of the Commission's Decision in
28 any other arbitration proceeding regarding U S WEST's performance standards or the applicability of

1 penalties.

2 **Access to databases and information. Issue #29**

3 **MCI's position**

4 MCI requested access to 12 databases or information sources which MCI claims are critical for
5 MCI to provide service to its customers at least equal to that which U S WEST provides itself.

6 **U S WEST's position**

7 U S WEST indicated that MCI will have access to several types of information through its web
8 interface beginning January 1, 1997. For several other items, U S WEST indicated that it did not have
9 enough information from MCI to respond to the request. U S WEST objected to MCI "mining" the
10 databases for the "best," most profitable customers.

11 **Commission's resolution**

12 We will require U S WEST to provide access to its databases and information in accordance with
13 Paras. 516-520. At the arbitration, the parties indicated that there may not be much disagreement on this
14 matter. Neither party discussed the matter further in their testimony or in their briefs. We will require
15 the parties to continue attempting to resolve this issue between themselves, and permit them to bring the
16 matter to our attention if they are unable to reach a resolution.

17 **Special process for technical and business process details in arbitration. Issue #30**

18 **MCI's position**

19 MCI proposed that a special process within the arbitration be established to resolve a host of more
20 technical issues which MCI believes must be resolved as part of this arbitration.

21 **U S WEST's position**

22 U S WEST indicated that it is willing to continue negotiating on interconnection issues, but
23 disagreed with the level of detail MCI sought.

24 **Commission's resolution**

25 We will not adopt the process which MCI proposed, but we do encourage the parties to continue
26 negotiating on any issues which have not yet been brought before us for resolution.

27 ...

28 ...

ANCILLARY ISSUES**Places where collocation permitted. Issue #31****MCI's position**

The Act, 251(c)(6), permits collocation at any premises of the ILEC. The Order, Para. 573, and the Rules § 51.5 define "premises" to include central offices, wire centers, tandem offices, structures owned or leased by an ILEC, and any structures that house an ILEC's network facilities on public rights-of-way. MCI requested collocation at wire centers, tandem offices and any other structures that house U S WEST network facilities.

U S WEST's position

U S WEST requested that collocation outside of U S WEST's end offices be handled on an individual case basis through the BFR process. U S WEST believes that collocation in cable vaults or similar structures outside those buildings in which U S WEST houses end offices and switches may not be technically feasible.

Commission's resolution

We adopt the Order's broad definition of "premises", and will not presume any specific point of collocation. MCI may collocate at any technically feasible premises, without being subject to the BFR process. If MCI wishes to collocate at a location other than a central office, U S WEST has the burden of proof to establish that the location, if included in the Order's definition of "premises," is not technically feasible.

Collocation equipment. Issue #32**Efficient connection of unbundled loops. Issue #12****MCI's position**

MCI requested the authority to place remote switching units ("RSUs") in collocated spaces. MCI claimed that the Act's standard for equipment which is necessary for interconnection or access to unbundled network elements, § 251(c)(6), also includes equipment which is used or useful for such purposes. The FCC Order Para. 579 supports MCI's claim, stating that the term "necessary" means "used" or "useful." MCI stated that RSUs are used and useful in the provision of interconnection or access to unbundled network elements. The Order indicated that ILECs were not required to permit

1 collocation of switching equipment as the FCC had not concluded that the equipment would be used for
2 the actual interconnection of access to unbundled network elements. The Order left to the states the
3 ability to resolve whether hybrid equipment used for switching and transmission, such as RSUs, may be
4 collocated. Order, Para. 581.

5 MCI proposed to use RSUs to provide interconnection to U S WEST's network and unbundled
6 elements. MCI provided testimony that collocating RSUs provides increased network efficiencies. RSUs
7 would ease U S WEST's concern regarding excess burden on its tandem switch because of the RSU's
8 ability to switch calls between MCI customers served by the RSU without the calls being processed
9 through U S WEST's switch. Further, through the use of RSUs, intra-switch call and 911/E911 calls
10 would survive a severance of the connection to the host central office.

11 In response to U S WEST's stated concern that RSUs may be used to avoid payment of access
12 charges, MCI stated that it would not use RSUs to avoid payment of such charges. MCI did not propose
13 any solution which would disable the ability of the RSUs to avoid payment of such charges.

14 MCI further proposed that RSUs collocated at U S WEST's facilities be permitted to be used for
15 cross-connection between MCI's network and the networks of other CLECs.

16 U S WEST's position

17 U S WEST objected to the collocation of RSUs, citing Order Para. 581, which indicates that there
18 will not be a general requirement for ILECs to allow collocation of switching equipment not used in
19 actual interconnection or access to unbundled elements. U S WEST stated its concern that RSUs may
20 be used to avoid the payment of access charges, by allowing an IXC to bypass an ILEC's tandem switch
21 and access the ILEC's network through the RSU. U S WEST also stated that RSUs would aggravate
22 space problems at its central offices, and recommended that MCI place RSUs at its POPs in Arizona, with
23 remote terminals in the collocated space, or locate RSUs in close proximity to U S WEST's switches.

24 US WEST argued that, if RSUs are permitted to be collocated, they should not be used to cross-
25 connect MCI's network with the networks of other CLECs. U S WEST contended that Paras. 594-595
26 only require an ILEC to cross-connect equipment which is used for interconnection with U S WEST or
27 access to U S WEST's unbundled network elements. U S WEST apparently believes that, because the
28 RSUs have certain switching capabilities, it is not required cross-connect an RSU to the equipment of

1 other carriers.

2 Commission's resolution

3 Pursuant to the Order Para. 580, ILECs have the burden of establishing that equipment requested
4 to be collocated by a CLEC is not "necessary," in the sense that it is "used" or "useful." Para. 579, 580.
5 U S WEST has not satisfied its burden to establish that RSUs are not used or useful for interconnection
6 or access to unbundled elements. Given that the ability to collocate RSUs significantly increases the
7 efficiency and quality of MCI's network through interconnection with U S WEST's network and
8 unbundled elements, U S WEST will be required to permit MCI to collocate RSUs.

9 RSUs will be subject to the same space limitations as any other equipment which a CLEC seeks
10 to collocate. The parties' Agreement should include a statement of MCI's commitment to not use RSUs
11 to enable the bypassing of switched access charges. U S WEST will be permitted to audit MCI's
12 reporting of local and toll calls. If it becomes feasible to block the ability of RSUs to bypass switched
13 access charges, MCI will be required to do so, at its own expense.

14 We will require U S WEST to provide cross-connection of MCI's collocated RSUs with the
15 equipment of other CLECs collocated at the same site. MCI's collocated RSUs will be used to
16 interconnect with U S WEST's network, and to perform limited switching functions. Despite the RSUs'
17 additional functions, they do serve the purpose of interconnecting MCI's network with U S WEST's and
18 therefore U S WEST must permit cross-connection of MCI's RSUs with the collocated facilities of other
19 CLECs.

20 Access to poles, conduits and rights of way. Issue #35

21 MCI's position

22 MCI requested that it have nondiscriminatory access to rights of way and related facilities on the
23 same terms and conditions that U S WEST provides such access to itself or to third parties. MCI
24 proposed that U S WEST provide information on the availability of access to poles, ducts, conduits and
25 rights of way within 20 business days of any request, or when it would provide it to itself, affiliates or
26 other carriers, whichever is earlier. MCI also proposed that U S WEST reserve for 90 days adequate
27 space on any pole, duct, conduit or right of way following a request by MCI, and that MCI then be given
28 six months to begin construction on the pole, duct, conduit or right of way.

1 U S WEST's position

2 U S WEST indicated that it will provide access to poles, interducts, conduits and rights of way
3 on a first come, first served basis. U S WEST opposed the 90 day and six month time periods, because
4 they could deny U S WEST or other carriers the use of the space. If required to take reservations, U S
5 WEST argued that the reserving CLEC should have to pay a reservation fee from the date of the
6 reservation until the facility is actually used. U S WEST also requested minimum purchase requirements
7 so that MCI cannot tie up long lengths of conduit or pole runs by selecting individual poles or very short
8 spans of conduit.

9 Commission's resolution

10 We will require U S WEST to provide access on a non-discriminatory basis. We will adopt
11 MCI's proposal regarding requests for information regarding available space. We recognize that MCI's
12 reservation of space does provide value to the detriment of U S WEST and other carriers, and we will
13 permit U S WEST to charge a reservation fee equal to U S WEST's currently approved cost of capital
14 for reservations of up to 90 days. After the expiration of the reservation period, MCI must either begin
15 paying the approved rate for access, whether or not it has actually installed conduit or cable, or release
16 its reservation. We will not permit U S WEST to impose any minimum purchase requirements at this
17 time, in the absence of any showing that MCI has in fact sought minimal access for the purpose of
18 frustrating other carriers' access to the same facilities. MCI must recognize, however, that the per-unit
19 cost of a small quantity may be significantly higher than if it requested access to a larger volume.

20 Provision of directory listings and white pages. Issue #36

21 MCI's position

22 MCI indicated that the resolution of this issue which the Commission ordered in *The Matter of*
23 *the Petition of TCG Phoenix for Arbitration Pursuant to § 252(b) of the Telecommunications Act of 1996*,
24 Docket No. U-3016-96-402 et al., Decision No. 59873 (October 29, 1996) is appropriate here. MCI
25 requested, however, that the Commission impose a deadline of 30 days from the date MCI receives its
26 Certificate of Convenience and Necessity in which MCI and U S West Direct must reach agreement.

27 U S WEST's position

28 U S WEST concurred that the resolution in TCG's arbitration is appropriate, but U S WEST

1 opposed the 30 day deadline. U S WEST indicated that MCI has not yet initiated discussions with U S
2 West Direct on the matter.

3 Commission's resolution

4 Consistent with our TCG resolution, we will retain jurisdiction over this issue and resolve it if
5 MCI is not satisfied with the outcome of its negotiations with U S West Direct. We desire to make it
6 clear that we expect MCI to receive the same treatment as U S WEST receives with respect to White
7 Pages and Yellow Pages matters. We decline to impose the 30 day limit which MCI requested, but
8 instead will permit MCI to bring the matter to our attention if it feels that it has reached an impasse in
9 negotiations with U S West Direct.

10 Nonrecurring charges and implementation costs, Issue #41

11 MCI's position

12 MCI opposed the implementation of one-time start-up or implementation costs by U S WEST.
13 MCI also opposed the implementation of non-recurring charges until the forward-looking economic costs
14 of such services are determined in the consolidated cost proceeding.

15 U S WEST's position

16 U S WEST proposed that it be permitted to recover costs incurred in unbundling network
17 elements or interconnection. U S WEST also proposed that it be permitted to recover non-recurring
18 charges based on the cost studies it has submitted.

19 Commission's resolution

20 Requiring CLECs to pay implementation or start-up costs could hamper competition. Therefore,
21 if the tariff for a specific service would require a customer to pay up-front costs for a service, it is
22 appropriate for U S WEST to charge MCI the same up-front fee. If another CLEC receives a benefit from
23 construction, MCI is entitled to recover contribution from the CLEC for a share of the construction costs.
24 If costs are not tarified for payment up-front, the construction costs should be recovered in the recurring
25 price of a service. Cost-based non-recurring charges will be established as part of the generic cost study
26 proceeding.

27 We will however, permit U S WEST to charge a customer transfer charge for resale customers
28 switching to MCI. The fee does not impose a burden on resellers which U S WEST would not bear itself

1 should a resale customer chose to transfer back to U S WEST. We will adopt U S WEST's proposed
2 charge as an interim rate. We will further permit MCI to demonstrate what its own costs will be upon
3 termination of a resale customer, so that amount may be discounted from the customer transfer charge
4 payable to U S WEST.

5 **Network information, Issue #42**

6 **MCI's position**

7 MCI requested eight types of information which it claimed it needed from U S WEST, including
8 locations and types of network interface devices (NIDs) and locations and types of FDIs.

9 **U S WEST's position**

10 U S WEST indicated that it would provide most of the requested information. U S WEST argued
11 that it is unnecessary to provide some of the information, as it is already publicly available. U S WEST
12 indicated that it does not maintain records of the locations and types of NIDs. U S WEST indicated that
13 there are over 7,600 FDIs in Arizona. Rather than provide information regarding each one, U S WEST
14 proposed that it provide information in response to MCI's requests for information about FDIs in specific
15 areas.

16 **Commission's resolution**

17 We will not require U S WEST to provide the information which is already available publicly.
18 We will require U S WEST to provide information on FDIs within a reasonable time after a request from
19 MCI about facilities in a specific area. If such information is available as part of U S WEST's operations
20 support system, it must be made available to CLECs on the same terms and conditions as it is available
21 to U S WEST.

22 **Remedies for alleged breach, Issue #43**

23 **MCI's position**

24 MCI proposed that disputes relating to the Agreement be brought before the Commission for
25 resolution within 60 days. MCI indicated that it did not view this as an exclusive remedy.

26 **U S WEST's position**

27 U S WEST has requested the Commission adopt its dispute resolution proposal, which basically
28 acknowledges that the parties may resolve disputes through negotiation or arbitration.

1 Commission's resolution

2 The Commission adopts U S WEST's dispute resolution proposal. The Commission has available
3 its complaint procedure, as well as rules which would provide for arbitration and negotiation of disputes.
4 Other resources for arbitration and mediation are available to the parties.

5 The parties also requested the resolution of a number of issues which were not specifically
6 addressed in the matrix.

7 Local Switching

8 MCI's position

9 MCI requested that the Commission follow the ruling of the FCC, Order Para. 412, and require
10 that local switching include all vertical features and functionality available on the switch.

11 U S WEST's position

12 U S WEST requested that vertical features and functionality which are separate services, such as
13 call waiting and call forwarding, not be included in the unbundled switch element. U S WEST stated that
14 such services should only be available at an extra charge as resold services.

15 Commission's resolution

16 The Commission adopts the FCC's determination and requires that vertical features and
17 functionality be included in the unbundled switch element.

18 Treatment of MCI switch

19 MCI's position

20 MCI is currently in the process of installing a switch in the Phoenix area. MCI already has a five
21 mile fiber optic ring in the ground in the Phoenix area. MCI plans to use the entrance facilities of its
22 long-distance affiliate. Those facilities currently reach almost all the U S WEST end offices in the
23 Phoenix LATA. U S WEST will be able to reach MCI's switch, and MCI will then be able to terminate
24 the calls throughout the Phoenix local calling area. MCI claimed that its switch will serve a geographic
25 area comparable to or larger than the area served by U S WEST's tandem switch, and therefore the rate
26 it receives for use of its switch should be the same as U S WEST receives for the use of its tandem
27 switch.

28 ...

1 U S WEST's position

2 U S WEST claimed that MCI's switch does not serve a geographic area comparable to U S
3 WEST's tandem switch, and should not be compensated the same as a tandem switch. U S WEST stated
4 that as MCI's fiber ring does not yet occupy the entire area served by all of U S WEST's end offices in
5 the Phoenix metropolitan area, it should receive compensation as an end office switch.

6 Commission's resolution

7 Section 252(d)(2) of the Act requires the Commission to establish reciprocal compensation
8 arrangements for the transport and termination of traffic between LECs based on a reasonable
9 approximation of the additional costs of terminating such calls. We believe that when a CLEC's switch
10 and network serves a geographic area comparable to that served by the ILEC's tandem switch, the ILEC
11 should pay the CLEC for use of that switch at the same rate the CLEC pays for use of the ILEC's tandem
12 switch.

13 MCI's switch, in conjunction with the existing facilities of MCI and its long distance affiliate,
14 will be able to terminate calls over a geographic area comparable to or greater than the area covered by
15 U S WEST's tandem switch. As a result, we find it to be just and reasonable for MCI to receive
16 compensation for the use of its switch equivalent to that of U S WEST's tandem switch beginning from
17 the date it enters an agreement granting access to the facilities of its long distance affiliate. Until that
18 time, MCI's switch should be billed at the rate equivalent to that of a U S WEST end office switch.

19 Interim prices

20 (a) Resale discount

21 MCI's position

22 MCI proposed an across the board discount of 22.5 percent for the purchase of services for resale.

23 U S WEST's position

24 U S WEST proposed resale discounts of from 1.01 to 8.17 percent, depending on the service.

25 Commission's resolution

26 The Commission has not had adequate time to review and analyze the cost studies submitted by
27 the parties to determine whether they comply with the requirements of the Act. Nor have the parties had
28 sufficient time to review and comment upon the studies. The FCC, in its Order, permitted state

1 commissions to establish interim resale discounts of 17 to 25 percent. 47 C.F.R. § 51.611. Based on all
2 the evidence presented, we find a 17 percent wholesale discount, applicable to all resale services, to be
3 just and reasonable as an interim resale discount, subject to true-up upon the establishment of permanent
4 rates.

5 **(b) Unbundled loops**

6 **MCI's position**

7 MCI filed no proposed prices for unbundled loops in this docket.

8 **U S WEST's position**

9 U S WEST requested adoption of its proposed price for an unbundled loop, which it estimated
10 to be a TELRIC price of \$30.67.

11 **Commission's resolution**

12 As we have previously recognized, the time constraints imposed on this proceeding do not permit
13 us or the parties time to do a thorough analysis of the cost studies. The FCC proxy price, which presently
14 is stayed, is \$12.85. The stay was issued by the Court because of concerns that the FCC overstepped its
15 legal boundaries in ordering the states to accept its pricing, not due to any particularly faulty analysis in
16 arriving at the proxy price. We therefore will adopt the average of the FCC's proxy rate and U S WEST's
17 proposed price, as we have not had sufficient time to analyze the differences in the methods of the FCC
18 or the parties. The price of \$21.76 for unbundled loops will be used on an interim basis, subject to true-
19 up upon the establishment of permanent rates.

20 With respect to conditioning charges, we will permit U S WEST to charge MCI for conditioning
21 of local loops on the same terms which it charges its own retail customers for conditioning. If U S WEST
22 normally charges its customers an up-front fee, it may require MCI to pay an up-front fee. If the fee for
23 conditioning is built into the monthly costs for its customers, however, the conditioning costs should be
24 considered as part of the forward looking economic costs of the upgraded loop. If U S WEST generally
25 charges a conditioning charge up-front, it may propose such a fee to MCI in response to a bona fide
26 request for such conditioning.

27 ...

28 ...

1 **(c) Transport and termination**

2 **MCI's position**

3 MCI filed no proposal in this docket for prices for transport and termination.

4 **U S WEST's position**

5 U S WEST proposed that prices for termination and transport be set based on its TELRIC studies.
6 U S WEST opposed bill and keep. U S WEST proposed, however, that if the Commission adopts bill
7 and keep for reciprocal compensation, there be a true-up upon termination of bill and keep pricing.

8 **Commission's resolution**

9 In accordance with our Interconnection Rules, we will adopt bill and keep as a reciprocal
10 compensation mechanism. A.A.C. R14-2-1304 provides that bill and keep be in place for 24 months
11 from our approval of the first interconnection agreement. However, we will permit either party to seek
12 an earlier termination of the bill and keep mechanism if it is able to show, based on six months of history,
13 that traffic terminated by MCI and U S WEST is out of balance by more than ten percent. We will not
14 require a true-up upon termination of bill and keep. The determination of transport and termination
15 charges after the interim period will be included in the consolidated cost studies hearing.

16 **Most Favored Nations**

17 **MCI's position**

18 Section 252(i) of the Act permits MCI, and any other telecommunications carrier, to obtain from
19 U S WEST any interconnection, service or network element which U S WEST provides under an
20 approved interconnection agreement, on the same terms and conditions as provided in the interconnection
21 agreement. MCI proposed that its Agreement include a provision granting MCI the right to select any
22 individual element from another carrier's interconnection agreement.

23 **U S WEST's position**

24 U S WEST opposed the inclusion of a "most favored nation" provision in the Agreement. The
25 Court has stayed the Rules' requirement that any carrier be permit to select any individual term from any
26 interconnection agreement. U S WEST argued that including a most favored nations provision in the
27 Agreement with MCI is at best redundant, at worst would deny U S WEST the benefit of its appeal of
28 the Rules.

Commission's resolution

The Court has stayed the FCC's interpretation of the most favorable terms provision, which would allow a company to pick and choose contract terms among other parties' Agreements, pending resolution of the issue on appeal. The Act § 252(i) requires U S WEST to make available to any other requesting telecommunications carrier any interconnection, service, or network element on the same terms and conditions as those provided in an Agreement. Pending the Court's determination of this issue, the Commission interprets the terms and conditions upon which the interconnection, service or element was offered to be the terms of the entire Agreement. Therefore, at this time, U S WEST is required to offer its entire Agreement to CLECs. The Agreement should indicate that the Court's ruling regarding the most favorable terms provision will be incorporated into the Agreement.

The Commission has rendered its Decision regarding the parties to this arbitration proceeding. Nothing in this Decision shall be considered to prejudge the outcome of the Commission's Decision in any other arbitration proceeding regarding the applicability or interpretation of the most favorable terms clause.

The parties will be instructed to prepare for the Commission's review an interconnection agreement incorporating in its terms the issues resolved by arbitration.

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. MCI has applied to the Commission for authority to provide competitive telecommunications services to the public in Arizona.
2. U S WEST is certificated to provide local exchange and intraLATA telecommunications services to the public in Arizona pursuant to Article XV of the Arizona Constitution.
3. On September 4, 1996, MCI filed with the Commission a Petition pursuant to the Act.
4. On September 24, 1996, U S WEST filed its Response to the Petition.
5. By Procedural Order dated September 9, 1996, an arbitration was scheduled for October 22, 1996, at the Commission's offices in Phoenix.

6. The Arbitration was held on October 22-24, 1996 before a duly authorized panel of Arbitrators.

7. On November 14, 1996, each party submitted a closing memorandum, which summarized the issues still unresolved and presented each party's proposed resolution of the issues.

8. The Commission has analyzed the issues presented by the parties and has resolved the issues as stated in the Discussion above.

9. The Commission hereby adopts the Discussion and incorporates the parties' positions and the Commission's resolution of the issues herein.

10. Pursuant to A.A.C. R14-2-1506(A), the parties will be ordered to prepare an interconnection agreement incorporating the issues as resolved by the Commission, for review by the Commission pursuant to the Act, within thirty days from the date of this Decision.

CONCLUSIONS OF LAW

1. MCI is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. MCI is a telecommunications carrier within the meaning of 47 U.S.C. § 252.

3. U S WEST is a public service corporation within the meaning of Article XV of the Arizona Constitution.

4. U S WEST is an ILEC within the meaning of 47 U.S.C. § 252.

5. The Commission has jurisdiction over MCI and U S WEST and of the subject matter of the Petition.

6. The Commission's resolution of the issues pending herein is just and reasonable, meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, is consistent with the best interests of the parties, and is in the public interest.

ORDER

IT IS THEREFORE ORDERED that the Commission hereby adopts and incorporates as its Order the resolution of the issues contained in the above Discussion.

IT IS FURTHER ORDERED that MCImetro Access Transmission Services, Inc. and U S WEST Communications, Inc. shall prepare an interconnection agreement incorporating the terms of the

Commission's resolutions.

IT IS FURTHER ORDERED that the interconnection agreement shall be submitted to the Commission for its review within thirty days of the date of this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 1996.

JAMES MATTHEWS
EXECUTIVE SECRETARY

DISSENT _____
SSW/kjd

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